

**ARIZONA STATE LABOR DEPARTMENT
PRIVATE EMPLOYMENT AGENTS
SMALL BUSINESS BILL OF RIGHTS**

The [Arizona State Labor Department](#) (Department), a division of the [Industrial Commission of Arizona](#), pursuant to [Arizona Revised Statutes \(A.R.S.\) § 41-1001.01](#), is required to provide small businesses with a *Bill of Rights* relating to statutorily defined business activities with the state Private Employment Agents laws. “Small business” is defined in [Arizona Revised Statutes § 41-1001](#) as an independently owned and operated business, not dominant in its field, employing less than one hundred full time employees or with less than four million dollars in gross annual receipts in its last fiscal year.

1. A regulated person is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in [A.R.S. § 12-348](#).
2. A regulated person is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in [A.R.S. § 41-1007](#).
3. A regulated person is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in [A.R.S. § 41-1008](#).
4. A regulated person is entitled to receive the information and notice regarding inspections and audits prescribed in [A.R.S. § 41-1009](#).
5. A regulated person is entitled to receive the following information and notice from an agency inspector, auditor or regulator who enters any premises of a regulated person for the purpose of conducting an inspection as provided in [A.R.S. § 41-1009](#):
 - (a) Present photo identification on entry of the premises.
 - (b) On initiation of the inspection or audit, state the purpose of the inspection or audit and the legal authority for conducting the inspection or audit.
 - (c) Disclose any applicable inspection or audit fees.
 - (d) Afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector, auditor or regulator on the premises, except during confidential interviews.
 - (e) The agency inspector or regulator must provide notice of the right to have on request:
 - (1) Copies of any original documents taken by the agency during the inspection or audit if the agency is permitted by law to take original documents.
 - (2) Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.
 - (f) The agency inspector or regulator shall inform each person whose conversation with the agency inspector, auditor or regulator during the inspection or audit is tape recorded that the conversation is being tape recorded.

(g) The agency inspector or regulator shall inform each person interviewed during the inspection or audit that statements made by the person may be included in the inspection or audit report.

6. On initiation of an audit or an inspection of any premises of a regulated person, an agency inspector, auditor or regulator shall provide the following in writing: 1) the rights described in paragraph 5 of this *Small Business Bill of Rights*, and [A.R.S. § 41-1001.01\(C\)](#); 2) the name and telephone number of a contact person who is available to answer questions regarding the inspection or audit; and 3) the due process rights relating to an appeal of a final decision of an agency based on the results of the inspection or audit, including the name and telephone number of a person to contact within the agency and any appropriate state government ombudsman.

7. The agency representative shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in paragraph 5 of this section indicating that the regulated person or on-site representative has read the writing prescribed in paragraph 5 and is notified of their due process rights. The agency shall maintain a copy with the regulated person or on-site representative of the regulated person.

8. At least once every month after the commencement of the inspection, the agency shall provide the regulated person with an update on the status of any agency action resulting from an inspection of the regulated person. The agency is not required to provide an update after the regulated person is notified that no agency action will result from the agency inspection or after the completion of agency action resulting from the agency inspection.

9. A regulated person is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in [§ 41-1030, subsection B](#). [For guidance, private employment agent licensing decisions and renewals are based on the requirements set forth in [A.R.S. § 23-526](#), [§ 23-527](#) and [A.A.C. R20-5-309](#).]

10. Where circumstances permit, the Commission will approve or deny the person's administrative completeness review of their initial or renewal application within 15 days of receipt of the application to determine whether the application contains the information required by [A.R.S. § 23-521 et seq. and Chapter 3, Article 2](#). [A.A.C. R20-5-304](#).

11. Where circumstances permit, the Commission will approve or deny the person's substantive review of their initial application within 120 days after an initial application is deemed complete or within 60 days after the renewal application is deemed complete. The Commission shall determine whether the initial or renewal application meets the substantive criteria of [A.R.S. § 23-521 et seq. and Chapter 3, Article 2](#), and shall issue a written order granting or denying the (renewal) license. [A.A.C. R20-5-304](#).

12. Where circumstances permit, the Commission will approve or deny the person's overall review of their initial application within 135 days after receipt of the initial application and

within 75 days after receipt of the renewal application. The Commission shall issue a written order granting or denying the (renewal) license. [A.A.C. R20-5-304](#).

13. A regulated person is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in [A.R.S. § 41-1001.02](#) and [A.R.S. § 41-1079](#). [For guidance, the filing requirements for the initial application can be found in [A.A.C. R20-5-305](#).]

14. A regulated person is entitled to receive written notice from the Commission on denial of a license application:

(a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in [A.R.S. § 41-1076](#). [A license denial may be based on the conditions outlined in [A.A.C. R20-5-309\(B\)](#).]

(b) That explains the applicant's right to appeal the denial as provided in [A.R.S. § 41-1076](#).

15. A regulated person is entitled to request a hearing on a license denial within 30 days of proper service under [A.A.C. R20-5-309](#) of the Commission's findings denying the license application. [A.A.C. R20-5-311](#).

16. A regulated person is entitled to request review of a Commission decision denying an initial or renewal license issued under [A.A.C. R20-5-313](#) by filing with the Commission a written request for review no later than 30 days after the written decision is mailed to the parties. [A.A.C. R20-314](#).

17. A licensee is entitled to request a hearing if the Commission takes disciplinary action against the licensee and seeks to revoke their license. [A.R.S. § 23-529](#).

18. A licensee, whose license has been suspended, is entitled to file a request asking the Commission to reissue their license. The licensee is entitled to a hearing within 60 days of the Department's administrative completeness review (to be completed by the Department within 15 days of receipt of the request) to determine whether the license should be reissued. [A.A.C. R20-316](#).

19. A licensee is entitled to appeal a Commission decision revoking their license pursuant to [Title 12, Chapter 7, Article 6](#).

20. A licensee is entitled to a hearing in a fee refund dispute with a complainant alleging that the licensee failed to provide a refund fee to the complainant. [A.A.C. R20-5-324](#).

21. A licensee is entitled to request review of a Commission decision resulting from a hearing involving a fee refund dispute with a complainant. [A.A.C. R20-5-324\(D\)\(4\)](#).

22. A licensee is entitled to appeal to the superior court an adverse Commission decision involving a fee refund dispute with an applicant. [A.R.S. § 23-532](#).

23. A regulated person may review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in [Title 41, Chapter 6, Article 2, Arizona Revised Statutes](#).

24. A regulated person may participate in the rulemaking process as provided in [Title 41, Chapter 6, Articles 3,4,4.1 and 5](#) of this chapter, including:

(a) Providing written comments or testimony on proposed rules to an agency as provided in [A.R.S. § 41-1023](#) and having the agency adequately address those comments as provided in [A.R.S. § 41-1052, subsection D](#), including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.

(b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.

(c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.

25. A regulated person is entitled to have an agency not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in [A.R.S. § 41-1030\(C\)](#).

26. A regulated person may allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in [A.R.S. § 41-1033](#).

27. A regulated person may file a complaint with the administrative rules oversight committee (AROC) concerning:

(a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in [A.R.S. § 41-1047](#).

(b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in [A.R.S. § 41-1048](#).

28. A regulated person may inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in [A.R.S. § 41-1091](#).

29. Unless specifically authorized by statute, a regulated person may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in [A.R.S. § 41-1002](#).

30. Each state agency that conducts audits, inspections or other regulatory enforcement actions pursuant to [A.R.S. § 41-1009](#) shall create and clearly post on the agency's website a small business bill of rights. The agency shall create the small business bill of rights by selecting the applicable rights prescribed in this section and [A.R.S. § 41-1009](#) and any other agency-specific

statutes and rules. At the request of an authorized on-site representative of the regulated small business, the agency shall provide a written document of the small business bill of rights. In addition to the rights listed in this section and [A.R.S. § 41-1009](#), the agency notice of the small business bill of rights shall include the process by which a small business may file a complaint with the agency employees who are designated to assist members of the public or regulated community pursuant to [A.R.S. § 41-1006](#). The notice must provide the contact information of the agency's designated employees. The agency notice must also state that if the regulated person has already made a reasonable effort with the agency to resolve the problem and still has not been successful, the regulated person may contact the office of ombudsman-citizens aide.

Process for Contacting the Arizona State Labor Department

Questions concerning a private employment agent license can be directed to: Lisa Padgett at: (602) 542-7110 or Lisa.Padgett@azica.gov.

Process for Filing a Complaint with the Commission re: Private Employment Agents

An interested person may submit a complaint concerning a private employment agents matter with the Industrial Commission of Arizona. Interested parties may contact the [Office of the Director, Industrial Commission of Arizona](#) at: (602) 542-4411.

Process for Filing a Complaint with the Arizona Ombudsman-Citizen's Aide

If an interested person has made a reasonable effort to resolve a Private Employment Agents issue with the Industrial Commission, and the results were unsuccessful, then you may contact the Arizona Ombudsman Citizen's Aide. The Citizen's Aide can be reached at: (602) 277-7292, (800) 872-2879, or ombuds@azoca.org.

Note: Nothing in this document is intended to nor does it create, enlarge, or diminish any right that may exist under any statute, code, or rule.